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AUTHOR Carter, David G., Sr.
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ABSTRACT

Aggregate data for the U.S. and selected cities demonstrate that minority students are suspended in disproportionately large numbers. The data suggest that this may be caused by interpretations of what constitutes acceptable behaviors that differ for various race, sex, and age groups; by inconsistent application of school codes to different race, sex, and age groups; and by disciplinary actions that are not consistent with the nature of the infraction. Steps taken to reduce the proportion of minority students being suspended might include reevaluation of the district's discipline policies; inclusion of students, teachers, and parents in the formulation of discipline policies; a survey of the records to see if discipline is being administered consistently; an analysis to determine specific discipline problems and their causes; design of disciplinary approaches that will address the problems and causes identified; an investigation into the possibility of more direct student training and involvement in school discipline; and a search for outside assistance in developing and implementing a fair, equitable, and nondiscriminatory discipline system. (Author/IRT)

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DRAFT

STUDENT DISCRIMINATION, DISPROPORTIONALITY AND THE LAW

David G. Carter

Associate Dean
School of Education
The University of Connecticut

American Educational Research Association

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Introduction

As early as 1968, James A. Kelly foresaw a certain education crisis, now staggering, in America's cities. "Disillusioned citizens, 'he wrote,' slip slowly toward open rebellion against the established institutions of society--police, city government, the armed forces, and yes, perhaps even especially, schools and universities."[1]

Sadly, one particular aspect of the general problem, a lack of student discipline, now threatens the stability and even the existence of public schools. Though no one person or group can be held responsible for the present situation or for resolving it single-handedly, administrative leadership could help resolve the external and internal problems generated by this lack of discipline. Moreover, we need educational leadership that invites concerned persons of good will to focus their attention and talents on this growing problem.

Such a focus is all the more desirable when one considers the disorganized pressure currently being applied by citizens, parents, students, and educators who are concerned about the violence, disruption and vandalism occurring in the schools. In short, the current perception is that discipline is out of control in the schools and that school authorities are in a quandary as to what to do about it. Their anxiety is compounded by charges that when they do discipline students, they do it unfairly. That is, they are accused of maintaining separate standards for Black students. Still others press for clearly articulated disciplinary action for each rule violation.

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[1]James A. Kelly, "A Point of View: City Schools and the Urban Coalition." Handout distributed at the Educational Leadership Seminar, Miami University, Oxford, Ohio, 1968.

The author does not intend to sit in judgment of school authorities, but to determine whether minority students are in fact disproportionately disciplined. Before addressing the central question, however, we should provide some background on the problem of discipline and its enforcement.

The Social Setting

It is understandable that this preoccupation with school discipline -- or the lack of it -- encourages the educational community and the public at large to point fingers at one another. Educators accuse parents of failing to support school authorities when their children need discipline, and of being too permissive and lenient. Understandably, administrators are hard pressed to identify and encourage the techniques to help them handle discipline problems.

"The responsibility for prevention and control," note Francis and Elizabeth Ianni, "has always rested more heavily upon the school than on the community."[2] Historically, school personnel assumed responsibility for supervising the students in loco parentis. As a result, school authorities developed a variety of techniques and strategies to maintain discipline within the schools. Some of the more common means for disciplining students include corporal punishment, suspension, expulsion, and detention.

Although attention has centered on both the positive and negative aspect of discipline, increasing concerns are being addressed by the courts. In addition the Department of Health, Education and Welfare has sponsored research designed to determine whether disciplinary actions in public schools have a disproportionate impact on minority students as compared to non-minority

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[2]Francis A. J. Ianni and Elizabeth Reuss-Ianni, "School Crime and the Social Order of the School," IRCD Bulletin, 14, Winter, 1979, p. 6.

students when viewed against the representation of each group in the school population. In fact, between 21 and 25 Special Student Concerns Projects have been funded by the Office of Education over the last three years to address the aforementioned question. If disproportionality existed, it was also hoped that alternative strategies for reducing the disparity would be recommended.

Discipline, Enforcement and Discrimination

The American public, fond of easy answers to complex problems, has chosen to focus on the symptoms rather than to engage in any thoughtful action based on a well-defined empirical plan to address school discipline. Society believes "law and order" is the way to correct errant human behavior. Similarly, many educators believe that retribution is the answer, and many of them attempt to develop responsibility by dispensing excessive punishment.

This is not to say, however, that disciplining students is unnecessary. The author is well aware of the pressure the public would bring if school officials decided to stop punishing students. Nevertheless, the current problems in the school earn hostility for school administrators and some of this hostility may result from a failure among both educators and parents to provide suitable role models. Too often, adult behavior fails to match the adults' expectations of students. Meanwhile, woodshed punishment has not curbed delinquency in the home or school. Educators can begin re-educating society to the fact that responsibility develops when discipline provides students with experiences that help them understand the logical consequences of their behavior.

The development of responsibility comes from continuous example and experience. Therefore, educators must be appropriate models and must not expect students to take responsibility overnight. This does not mean that they cannot hold students accountable for their actions, or that they should not demand and expect the best from students. It does mean that gaining maturity is an evolutionary process that requires time, direction, and a great amount of patience.

> Relative to the effective use of discipline...within the school, the principal holds the key. It is the task of the school principal to structure an atmosphere within the school wherein methods and procedures of discipline are particularized.[3]

We can begin by considering whether detention, suspension, and expulsion help students and resolve discipline problems. This is an especially valid question since educators tend to impose these measures without carefully scrutinizing each situation. Negative results arise when the welfare or "rehabilitation" of the student is not the prime consideration and when each student's problem is not treated as unique and deserving of a special approach to behavior modification.

Opinion among educators vary regarding the use of disciplinary measures. Suspension, for example, is presently the topic of a controversy arising out of legal and moral concerns. The Supreme Court in Goss v. Lopez[4] provided hope for those concerned about the apparently flagrant use of suspension and expulsion as disciplinary measures. It is difficult to determine the effect

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[3]Michael Marvin, et.., Planning Assistance Programs to Reduce School Violence and Disruption, Philadelphia, Research for Better Schools.

[4]95 S. Ct. 725 (1975).

this decision will have on the number of students suspended, but prior to the Goss decision, millions received suspensions each year, which frequently led to situations far more serious than if they had been allowed to remain in school.[5]

Student Discipline and Disproportionality

As Yudof observes, "the use of statistical evidence, either with respect to the initial finding of a violation of law or the adoption of a remedy, is particularly problematic in the content of racial discrimination suits involving primary and secondary public schools."[6] Nevertheless, there is sufficient evidence to support the claim that Black students have been disproportionately disciplined compared to their white counterparts purport. This discipline burden came on top of normally lower scores on various standardized tests. As previously mentioned, this pattern frequently results in Black children being placed on the lower track or in the lower ability group. Couple this pattern with the traditionally inadequate facilities Blacks receive, and you begin to wonder why Blacks ever aspire to an education at all.

Although little information is available on the reasons for most suspensions, a study by the Children's Defense Fund shows that students generally are suspended for tardiness, unexcused absences, and fighting, usually with

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[5] Children's Defense Fund, School Suspensions: Are They Helping Children? A report prepared by the Children's Defense Fund of the Washington Research Project, Inc., Mass., 1975, p. 15.

[6] Mark G. Yudof, "Suspension and Expulsion of Black Students From the Public Schools: Academic Capital Punishment and The Constitution," Law and Contemporary Problems, 39, Spring, 1975, p. 377.

other students.[7] Contrary to what many educators believe, major acts of violence, destruction of school property, assaults on teachers, drugs, and alcohol account for only a small percentage of suspensions.

One of the Children's Defense Fund's more interesting findings concerns the number of suspensions that took place in the 1972-73 school year "in school districts with a little over half of the student population in this country." Minority students, the study revealed, were suspended much more than their counterparts.[8] For instance over 50 percent of the students suspended in New York, Houston, Cleveland, Memphis and Dallas were minority, though less than 40 percent of those districts' total enrollment was minority.

Table 1

City	Percent Minority Enrollment	Percent Minority Suspensions
New York	64.4	85.9
Houston	56.4	71.0
Cleveland	59.9	70.8
Memphis	58.0	70.2
Dallas	49.4	68.5

OCR forms OS/CR-102's for Fall 1972 and Fall 1973 as submitted by local school districts.

During this time, there were approximately one million suspensions. School days missed amounted to about 22,000 school years. Chicago, New York City, Philadelphia, Duval County (Jacksonville, Florida), and Cleveland were the top five student suspension areas, and in these areas, a disproportionate number of Black students were suspended. To some, this finding might reflect

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[7] School Suspensions, op. cit. p. 37.

[8] Ibid., p. 58.

disproportionate misbehavior among Black students. But the researchers found that this was not the case--the Black students were just treated differently. A double standard appeared to operate for student suspensions.[9]

Table 2 contains data that indicates that between 1976 and 1980 a large number of students were suspended. Although minority students comprised 41 percent of the districts reporting to the Office of Civil Rights, they accounted for 14 percent of those suspended. This table depicts statistics for the fifty top ranked districts for which significant overrepresentation of minorities suspended and expelled, aggregated by region. Districts were flagged as having an overrepresentation of minorities if the actual numbers of pupils suspended and expelled, by race/ethnicity, deviated significantly from what would be expected if the manner in which pupils were suspended and expelled was independent of race. For nearly every region of the nation, the proportion of Black students suspended or expelled is two to three times greater than the proportion of white students suspended or expelled. The trend for Hispanics is less severe, only slightly exceeding the proportion of whites suspended or expelled in most regions.

A closer look at the data indicates that minority students are two or three times as liable to suspension as white students. This finding supports the Children's Defense Fund Study in 1972-73. The Children's Defense Fund found at the secondary school level that "Black students were suspended more than three times as often as white students: 12.8 percent compared with 4.1 percent."[10] Such a disproportion would normally cause outrage, but school

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[9] Ibid., p. 13.

[10] Children's Defense Fund, Children Out of School in America, A report prepared by the Children's Defense Fund of Washington Research Project, Inc., Mass., 1974.

Table 2

The Top Fifty Districts With An Over Representation
Of Minorities Suspended Or Expelled Aggregated By Region (1976)

Region	Total Enrollment	Total Suspended or Expelled	Total Black Enrolled	Total Black Suspended Or Expelled	Total White Enrolled	Total White Suspended Or Expelled	Total Hispanic Enrolled	Total Hispanic Suspended Or Expelled
Region #1 - Total Pupils	425,319	73,841	66,602	8,161	320,644	13,700	35,025	2,325
Percentage			16	12	75	4	8	7
Region #2 - Total Pupils	518,677	41,345	233,607	24,681	211,001	13,009	68,799	3,515
Percentage			45	11	41	10	13	5
Region #3 - Total Pupils	1,502,769	81,081	558,458	42,202	914,578	37,207	11,251	435
Percentage			37	8	61	4	1	4
Region #4 - Total Pupils	1,906,852	94,084	615,248	50,369	1,190,117	41,458	90,961	1,452
Percentage			32	8	62	3	5	2
Region #5 - Total Pupils	1,860,557	127,437	916,851	81,489	817,654	41,062	108,341	4,355
Percentage			49	9	44	5	6	4
Region #6 - Total Pupils	1,255,776	82,859	436,572	43,260	618,119	29,299	180,628	7,846
Percentage			35	10	49	5	14	4
Region #7 - Total Pupils	588,205	34,466	166,747	18,605	405,102	16,938	9,660	545
Percentage			28	11	69	4	2	6
Region #8 - Total Pupils	565,763	18,329	23,200	2,328	461,046	11,428	69,892	4,134
Percentage			4	10	81	2	12	6
Region #9 - Total Pupils	1,686,223	98,464	331,512	33,525	765,969	43,317	362,520	18,082
Percentage			20	10	45	6	21	5
Region #10- Total Pupils	409,256	17,146	28,520	2,710	343,120	12,630	11,692	656
Percentage			7	10	84	4	3	6
NATION - Total Pupils	10,719,397	671,052	3,377,317	307,331	6,047,351	260,048	948,769	43,345
Percentage			32	9	56	4	9	5

officials and others, as I said, frequently attribute this disproportionality to be behavior of minority students rather than to factors inherent in the schools they supervise. Nor is it particularly unusual for minority students attending desegregated schools to experience more stringent enforcement of rules and regulations than their white counterparts.

> Discriminatory attitudes and habits once apparent in blatantly dual systems now simply reflect themselves in the so-called second generation desegregation problems involving discriminatory discipline, tracking and special education placement.[11]

Recent findings in a study by Bennett and Harris[12] in Fort Wayne, Indiana, and Evanston, Illinois, cities desegregated recently, indicated that minority students appear to indeed be disciplined more than white students.

On September 16, 1980 the Metropolitan Human Relations Commission submitted a report entitled "An Analysis of Suspension and Enrollment Patterns Among Portland Public Schools."[13] This report contained data concerning student suspensions during the 1978-79 academic year in the Portland, Oregon area. The Commission found that although Black students comprised only 13.5 percent of the total enrollment, they accounted for 29.3 percent of all the suspensions. Thus, compared to white students, Blacks were being suspended at a 2.55 to 1 ratio. The students had generally been suspended for the following kinds of reasons:

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[11] School Suspensions, op. cit., p. 14.

[12] Special Student Concerns Project, Co-Directed by Christine Bennett and J. John Harris, III, and Funded by USOE

[13] Metropolitan Human Relations Commission, Utilizing Data Supplied by Portland Public School District, Analysis of Suspension and Enrollment Patterns Among Portland Public Schools (Academic Year 1978-79).

(1) School attendance problems,

(2) Behavior problems with other students,

(3) Unacceptable individual behavior, and

(4) Disrespect, harassment, or insubordination.

The Commission concluded that

(1) Black students suspensions are in disproportion to Black student enrollment while the reverse is true for whites and other minorities.

(2) Based on actual occurrences, the ratio of a Black student's probability of suspension compared to that of whites is 2.55 to 1. For other minorities, the ratio is 48 to 1.

(3) The suspension probability ratio of Black students to white students in K-8 schools is the highest for all school type/grade levels at 3.25 to 1. The high school ratio is the second highest at 2.75 to 1.[14]

In another study conducted by the South Carolina Human Affairs Commission, data was examined concerning student suspensions in three school districts between 1972 and 1975.[15] Here too, the researchers found that Black students had been suspended out of all proportion to their numbers.

It is important to note, of course, that those students who are repeatedly suspended make the problem to appear greater than reality. The repeater increases the number of Black student suspensions, causing many to conlcude that Black students are involved in more problems than one should expect.[16] On the other hand (or in addition), the "fear" of suspension diminishes if one has gone through the process once.

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[14] Ibid., p. 6.

[15] The South Carolina Human Affairs Commission, A Study of Student Suspensions in South Carolina, June, 1976.

[16] Ibid., p. 210A.

The rationale for suspending students is that a suspension helps get the parents into the school. But, the Children's Defense Fund survey found that 33 percent of the students suspended who were interviewed claimed that they returned to school without their parents ever being involved in the re-entry process.[17] This finding, coupled with the obvious failure of suspension to rehabilitate students, forces one to ask whether suspension is the answer. This is not to say that suspension cannot help some students; it is to say that educators should not view any one technique as the answer for all students.

Conclusion

The problems of violence and vandalism in the schools must be examined in their proper perspective. They must be seen as a manifestation of the violence that characterizes American society generally. Indeed, crimes against persons and property have risen to such staggering proportions as to have warranted national attention for more than a decade. Social scientists and commentators point to a variety of causes for this development: the erosion of respect for authority of all kinds, whether it be the family, the church, the government or the school; the glorification of war and violence in the media; the despair and desperation occasioned by the continuing problems of poverty and racism; and the growing preoccupation with self-interest at the expense of the common good.

Having said that violence in schools is a part of a general social problem, the question remains: What can be done to achieve the greater measure of safety and security that our students and school staff deserve

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[17] School Suspensions, op. cit., p. 16.

and that the educational process requires? Some have argued that the schools cannot be expected to resolve the larger problems of alienation, discrimination and economic dislocation, and that improved conditions in our schools must await the success of massive social and cultural reforms.

Others take the position that schools can be maintained as havens of order even amid general disorder if strict rules of behavior are laid down and tough enforcement is adopted. We must reject this approach. Too often, as one analyst has noted, it "leads to a self-defeating cycle, in which overemphasis on rules, surveillance and punishment fans the flames of resentment and defiance, and so on."[18]

The educational system bears a dual responsibility when it comes to combating violence and disruption in the schools. The immediate responsibility is to ensure the safety of students and staff. In addition, there is a larger responsibility to address the root cause of delinquent behavior in the schools and the society. The former is an institutional responsibility and implies accountability; the latter is a shared responsibility and implies leadership.

If the process of education is slowed by disruptions, the destruction of property, and a general loss of control, prompt steps must be taken to remove these impediments.

There is, however, an inherent weakness in a problem-solving approach that addresses only symptoms. In some respects, dealing only with immediate responsibility for curbing violence and vandalism is like taking aspirin for a toothache. The pain may be temporarily eased, but its cause

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[18] William J. Genova, "School Discipline: Symptom or Problem?" Unpublished Paper, August 1979.

remains, and the cycle repeats itself. In my view, therefore, the control of violence and vandalism cannot be an ultimate objective. In the final analysis, control strategies often replace the effects they attempt to control while cultivating an authoritarian environment particularly unsuited to the education of young people.

Thus I call attention to a higher responsibility which, is more important than addressing the more immediate concerns noted earlier. That responsibility addresses the causes of school violence and vandalism; thus, it strives for the fundamental objective. The past decade has seen a wide variety of national, state, and local programs focusing upon the problem of youth crime and delinquency, yet a "cure" has never materialized. I doubt that one will in the near future. There is, however, a methodology which, while not a panacea, has the potential for directly affecting the fundamental problem of youth crime and delinquency. That methodology centers on prevention.

Gaining rapid acceptance in the medical and mental health fields, prevention theory has been applied with increasing success to juvenile delinquency. Prevention theory rests on the assumption that specific conditions nurture an environment conducive to delinquent or disruptive behavior. If these conditions receive attention in a manner that reduces their impact while positive alternatives appear in their place, delinquency should be replaced by constructive behavior.

What is so attractive about prevention is its totally affirmative approach to the problem of delinquency. While control and containment strategies represent short-term, tactical approaches to the problem, prevention is a long-term strategic objective. When brought to bear upon

those conditions that promote violence and vandalism, it is a positive reinforcement of those fundamental values and ideals that have traditionally supported personal growth and understanding, and have helped to develop contributing members of society. The compatability of such a strategy with the basic educational mandate is clear.

The objective of any recommendation should be to improve school climate and present delinquency through the professional development of faculty and staff.

The data discussed here clearly demonstrates that minority students are, in fact, disproportionately suspended. To suggest causes for this disproportion would, of necessity, amount to being conjectural. But, the data itself suggests that the disproportionate numbers of minority students subjected to the effects of school disciplinary systems may be attributed to

(1) the differing interpretations of what constitutes acceptable behaviors and the differing expectations of school officials as to how these standards will be met by students from different race, sex, and age groups;

(2) the application of school codes inconsistently to different race, sex and age groups; and

(3) the need to analyze the nature and effect of the disciplinary action with regard to the nature of the infraction.

If the disparity between the suspension of Black and white students is to be reduced

(1) school officials must re-evaluate district disciplinary policies and formulate viable alternatives to suspensions;

(2) a clear determination of whether students are legitimate.

(3) teachers, parents and students should have some influence on the formulation of discipline policies;

(4) a survey of discipline records should be conducted to determine if rules are being consistently administered; and

(5) school officials should develop accountability rules and procedures to determine if the rules are being interpreted properly and if discipline is being administered consistently.[19]

To address disproportionate suspensions of Black and other minority students, school officials might adopt the following procedure:

(1) Officials should conduct detailed analyses that enable them to identify specific problems and causal factors. (Such an analysis would identify who is being suspended, at what school, at what grade level, for what reasons, and the race of the suspended student. Such identification would show where and what remedies need to be applied.)

(2) Officials should design and utilize disciplinary approaches that will directly address these problems.

(3) Officials should investigate the possibility of more direct student training and involvement in school discipline in the form of student coordinating committees, etc.

(4) Officials should seek technical assistance from outside experts to develop and implement a disciplinary system that is fair, equitable and, above all, non-discriminatory.

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[19] Ibid., p. 211-213.

In summary, the author in no way has meant to suggest reasons for the difference between suspension rates of minority and white students. The purpose here is to clearly indicate that such a difference does in fact exist. It is for this reason that educators must carefully study the problem to determine reasons for disproportionate treatment.